

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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|---|---|----------------------------------|
| IN RE: LIBOR-BASED FINANCIAL |) | |
| INSTRUMENTS ANTITRUST LITIGATION |) | |
| |) | |
| |) | |
| THIS DOCUMENT RELATES TO: |) | |
| COMMUNITY BANK & TRUST ACTION |) | |
| |) | |
| COMMUNITY BANK & TRUST, Individually |) | MDL No. 2262 |
| and On Behalf of All Others Similarly Situated, |) | Master File No. 1:11-md-2262-NRB |
| |) | |
| Plaintiff, |) | 12 Civ. 4205 |
| |) | |
| v. |) | |
| |) | |
| BANK OF AMERICA CORPORATION; |) | ECF CASE |
| BANK OF AMERICA, N.A.; CITIGROUP, |) | |
| INC.; CITIBANK, N.A.; JPMORGAN CHASE |) | |
| & CO.; and JPMORGAN CHASE BANK, |) | |
| NATIONAL ASSOCIATION, |) | |
| |) | |
| Defendants. |) | |

**DEFENDANTS' RESPONSE TO COMMUNITY BANK & TRUST'S APPLICATION
FOR INCLUSION IN THE MDL PURSUANT TO JUNE 14, 2012 ORDERS**

Defendants¹ respectfully submit this response to the application by Plaintiff Community Bank & Trust for inclusion in the MDL (Document 154). Defendants support Community Bank's application because Community Bank's Complaint alleges facts and causes of action similar to those alleged by the class and individual plaintiffs in the MDL and because it appears

¹ There are three sets of Defendants in the *Community Bank* matter: (1) Bank of America Corp. and Bank of America, N.A., (2) Citigroup, Inc. and Citibank N.A., and (3) JPMorgan Chase & Co. and JPMorgan Chase Bank, N. A.

that the transactions covered by Community Bank's Complaint are separate from the transactions covered by the other class actions in the MDL.²

Community Bank proposes that motions to dismiss its Complaint should be due "on the same date set for the opposition briefs" on the motions to dismiss the other complaints, *i.e.*, August 28, 2012. (Application at 6). If the Court grants Plaintiff's application, Defendants do not oppose the proposal for motions to be due on August 28, 2012, and request leave to file a joint opening brief of no more than 35 pages.

Community Bank also proposes that the briefing schedule should be "similar in time" to the briefing schedule in the other cases in this MDL. Defendants express no opinion on how many days Community Bank should have for its opposition brief (it has not proposed a specific schedule), but regardless of the specific date that Community Bank's opposition brief may be due, Defendants should have 30 days thereafter for their joint reply brief, just as provided for in the schedule for the other motions to dismiss. Although some of the issues in a motion to dismiss the Community Bank Complaint will overlap with the motions already filed, Defendants should be afforded sufficient time to adequately address any issues specific to the Community Bank Complaint.

² The classes are principally defined in terms of categories of transactions, rather than categories of entities. As a result, a single entity might have transactions that make it a member of multiple classes. Defendants reserve the right to argue, at an appropriate time, that such an approach is not proper. For present purposes, Defendants merely agree that given plaintiffs' transaction-based class definitions, the loans that are the basis for Community Bank's claims for damages are not within the categories of transactions pursued by other plaintiffs.

Dated: New York, New York
July 5, 2012

/s/ Robert F. Wise, Jr.

Robert F. Wise, Jr.
Arthur J. Burke
Paul S. Mishkin
DAVIS POLK & WARDWELL LLP
450 Lexington Avenue
New York, NY 10017
robert.wise@davispolk.com
arthur.burke@davispolk.com
paul.mishkin@davispolk.com
Telephone: (212) 450-4000
Fax: (212) 450-4800

Attorneys for Defendants Bank of America Corporation and Bank of America, N.A.

/s/ Thomas C. Rice

Thomas C. Rice
Juan A. Arteaga
Joan E. Flaherty
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, New York 10017
Telephone: (212) 455-2000
Fax: (212) 455-2502
trice@stblaw.com
jarteaga@stblaw.com
jflaherty@stblaw.com

Attorneys for Defendants JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A.

Respectfully Submitted,

/s/ Andrew A. Ruffino

Andrew A. Ruffino
COVINGTON & BURLING LLP
The New York Times Building
620 Eighth Avenue
New York, NY 10018
aruffino@cov.com
Tel: 212.841.1000

Alan M. Wiseman
Thomas A. Isaacson
1201 Pennsylvania Avenue N.W.
Washington, D.C. 20004
awiseman@cov.com
tisaacson@cov.com
Tel: 202.662.6000

Michael R. Lazerwitz
Joon H. Kim
CLEARY GOTTLIEB STEEN &
HAMILTON LLP
One Liberty Plaza
New York, NY 10006
mlazerwitz@cgsh.com
jkim@cgsh.com
Tel: 212.225.2000

Attorneys for Defendants Citibank, N.A. and Citigroup, Inc.